IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7122 of 1989

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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Versus

GUJARAT UNIVERSITY

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Appearance:

MR PH PATHAK for Petitioner

MR SN SHELAT for Respondent No. 1, 2

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 07/04/2000

ORAL JUDGEMENT

1. The learned advocate Mr. Pathak is not present even on the second call. Heard learned advocate Mr. Mazgaonkar for the respondent University.

2. It appears that the petitioner before this Court had in the year 1987 acquired the Bachelor's degree in Library and Information Science of the respondent University. In view of the qualification acquired by the petitioner under communication dated 18th December, 1987, the petitioner was informed to apply for the post of Junior Clerk in the various centres of the University Library on temporary basis, if desired. Pursuant to the said communication, the petitioner made an application on 21st December, 1987. His application was accepted by order dated 21st December, 1987. The petitioner was appointed as a Reliever Junior Clerk for a fixed pay of Rs.500/-. The said order mentions that the petitioner would be required to serve on various centres of the University Library on leave vacancy. The said appointment was made up to 31st March, 1988. However, it appears that even after 31st March, 1988 the petitioner's appointment on stop gap arrangement was continued by order dated 10th July, 1989 pursuant to which on 27th July, 1989 the petitioner gave an undertaking to the Registrar of the University to the effect that he shall not claim the benefit of permanent service. In the present petition, the petitioner has contended that the petitioner has been working as a Junior Clerk continuously since 28th December, 1987 and that he is entitled to the regular salary of a Junior Clerk on the principle of "Equal pay for Equal work". It is prayed that the petitioner's service be treated as regular service from the date of its inception and the petitioner be paid his salaries in regular time scale. The difference of salary be paid alongwith interest. It is also contended that the action of the University amounts to unfair labour practice within the meaning of Section 2(r) of the Industrial Disputes Act, 1947.

3. The petition is contested by the University. The officiating Registrar one Shri M.P. Jadia has made an affidavit. It is contended that the petitioner has not been given regular appointment after due selection. however, he was given a stop gap assignment. However, since he possessed the requisite qualification, he was given stop gap assignment on leave vacancies. By such stop gap assignment, the petitioner did not acquire the right to permanent employment or regular pay scale. It

is further denied that the petitioner has served continuously since December, 1987 as alleged.

4. Having regard to the order of appointment and the undertaking given by the petitioner, it is apparent that the petitioner has not been appointed as a Junior Clerk after due selection. The University being a State within the meaning of Article 12 of the Constitution of India, the appointments are required to be made in accordance with the relevant Rules after due selection. The petitioner having not been appointed after due selection his claim for permanent employment cannot be accepted. The claim for regularisation in service requires to be rejected. Besides, Mr. Mazgaonkar states that the stop gap arrangement was made up to 25th January, 1990 and since then his service stands terminated. In that view of the matter also, the relief prayed for in this petition cannot be granted.

5. In view of the above discussion, the petition is dismissed. Rule is discharged. Interim relief is vacated.

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